

REMARKS

Applicant expresses appreciation for the opportunity to discuss with Examiner Ian N. Moore during a telephone call on April 28, 2006, the earlier issued Office action mailed April 17, 2006. Examiner Moore and Applicants' representative agreed that the Office action mailed April 17, 2006 failed to consider the newly added claims 58-72 added in the response filed November 17, 2005. The Office action mailed April 17, 2006 was withdrawn in the Office action mailed May 2, 2006.

Claims 22-72 are pending in the Application. Claims 22 and 39 are amended, and new claims 73-88 are added by this amendment. Claims 22, 39, 58 and 73 are independent claims. Claims 23-38, 40-57, 59-72 and 74-88 depend from independent claims 22, 39, 58 and 73, respectively. The Applicants respectfully request reconsideration of the pending claims 22-72 and consideration of new claims 73-88, in light of the following remarks.

Amendments to the Claims

Claims 22 and 39 have been amended as shown above to correct informalities, as noted in the Office action. (Office action, page 2, item 2) The Applicants respectfully submit that no new matter has been added by these amendments.

Objections to Claims

Claims 22 and 39 were objected to because of informalities. Applicants respectfully disagree with the objections. However, Applicants have amended claims 22 and 39 as shown above, in an effort to further the Application towards allowance. Therefore, Applicants respectfully request that the objections to claims 22 and 39 be withdrawn.

Rejections of Claims

Claims 22, 28, 29, 36-39, 45, 46, 53-58, 63, 66 and 69-72 were rejected under 35 U.S.C. §103(a) as being unpatentable over Sinton et al. (US RE38787E) in view of Drakopoulos et al. (US 5,506,848, hereinafter "Drakopoulos"). The Applicants respectfully traverse the rejection. However, in an effort to advance the Application towards allowance, the Applicants have amended claims 22 and 39.

With regard to an obviousness rejection, MPEP 2142 states that in order for a prima facie case of obviousness to be established, three basic criteria must be met, one of which is that the

reference or combination of references must teach or suggest all the claim limitations. Further, MPEP 2143.01 states that “the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art suggests the desirability of the combination”, and that “although a prior art device ‘may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so’” (citing *In re Mills*, 916 F. 2d 680, 16 USPQ 2d 1430 (Fed Cir. 1990)). Moreover, MPEP 2143.01 also states that the level of ordinary skill in the art cannot be relied upon to provide the suggestion...,” citing *AI-Site Corp. v. VSI Int’l Inc.*, 174 F. 3d 1308, 50 USPQ 2d. 1161 (Fed Cir. 1999).

Regarding amended claim 22, the Applicants respectfully submit that the proposed combination of references does not teach, suggest, or disclose, for example, a communication network supporting the exchange of voice and data, the network comprising at least one portable terminal having a wireless transceiver adapted for communication using a packet protocol; the at least one portable terminal adapted for converting sound into digital voice packets for transmission via the wireless transceiver, and for receiving digital voice packets via the wireless transceiver, the contents of the digital voice packet for conversion into sound; the at least one portable terminal adapted for capturing digital data into data packets for transmission via the wireless transceiver, and for receiving data packets via the wireless transceiver, the contents of the data packets used for reproducing digital data; at least one access device having a wireless transceiver for exchanging one or both of digital voice packets and digital data packets with the at least one portable terminal, the at least one access device comprising a network interface for exchanging information via a wired network; the at least one access device selectively transferring to its wireless transceiver for transmission at least a portion of the information received from its network interface, and selectively transferring to its network interface for transmission at least a portion of the information received by its wireless transceiver; and wherein digital voice packets wirelessly exchanged by the at least one portable terminal comprise destination information used for routing the digital voice packets through the communication network. The Office action states that Sainton discloses a communication network comprising at least one access device, the at least one access device “...selectively transferring to its wireless transceiver for transmission at least a portion of the information received from its network interface (see FIG. 14, a base station comprising a Cell site transmitter

1412 selectively, in transmit direction to wireless transceiver, moves/transfer the data packets/frame received from its network interface (via cellular telephone network office); see col. 21, line 20-36).” (Office action, page 4, lines 16-20) Applicants respectfully disagree. The cited teachings of Sainton fail to teach anything about selectively transferring information received from a network interface to a wireless transceiver for transmission.

The Office action also states that Sainton discloses a communication network comprising at least one access device, the at least one access device “...selectively transferring to its network interface for transmission at least a portion of the information received by its wireless transceiver (see FIG. 14, a base station comprising a Cell site transmitter 1412 selectively, in receive direction from the wireless transceiver, moves/transfer the data packets/frame to its network interface (to cellular telephone network office); see col. 21, line 20-36).” (Office action, page 4, line 21 to page 5, line 3) The Applicants respectfully disagree. The cited teachings of Sainton make no mention of an access device selectively transferring to a network interface for transmission at least a portion of the information received by a wireless transceiver. Drakopoulos is also silent in this regard.

In addition, the Office action states that Sainton discloses a communication network “...wherein digital voice packets wireless exchanged by the at least one portable terminal comprise information used for routing the digital voice packets through the communication network (see col. 8, line 25 to col. 9, line 25; digitized packets/frames/data from the cellular phone comprise routing/forwarding information through the cellular telephone system). (Office action, page 5, lines 4-7) The Applicants respectfully disagree. Applicants respectfully submit that the proposed combination of Sainton and Drakopoulos fails to teach or suggest where digital voice packets wirelessly exchanged by the at least one portable terminal comprise destination information used for routing the digital voice packets through the communication network, as recited in Applicants’ claim 22. The Applicants appreciate recognition in the Office action that Sainton does not explicitly disclose destination information. (Office action, page 5, line 8) The Office action alleges, however, that “...it is well known in the art when forming and routing packets/frames over the network to remote end/destination, one must use destination address/number/information to route.” (underlining added) (Office action, page 5, lines 8-10) Applicants respectfully disagree, and submit that the use of digital voice packets wirelessly exchanged by the at least one portable terminal comprise destination information used for

routing the digital voice packets through the communication network is not well known in the context of the elements as recited in independent claim 22, and certainly was not well known at the time of Applicants' invention. If the Examiner maintains this rejection, Applicants request that the Examiner cite a prior art reference that specifically shows what the Examiner alleges is well known.

The Office action submits that Drakopoulos teaches "...wherein the outgoing digital voice packets comprise destination information (i.e., signaling/control information) used for routing the outgoing digital voice packets through the wireless packet network (see col. 5, line 31-42; using the address of the destination end user in voice packet for routing through the wireless network)." (Office action, page 5, lines 10-14) The Applicants respectfully disagree. To the contrary, Drakopoulos teaches a circuit switch-type system in which the contents of packets containing data or voice information is not used for routing the packet from source to destination. (See, for example, col. 6, lines 40-54) Instead of teaching digital voice packets wirelessly exchanged by the at least one portable terminal that comprise destination information used for routing the digital voice packets through the communication network, as recited in Applicants' claim 22, Drakopoulos teaches circuit switching based upon "...a reservation request that preferably includes a location address of the source end user (that is, the mobile terminal 216 who is preparing the reservation request), a location address of the destination end user, and the type of service requested (voice or data)." (col. 5, lines 34-38) The Applicants respectfully submit that the "reservation request" of Drakopoulos is different from, and fails to teach or suggest a digital voice packet, as recited in Applicants' claim 22.

Based at least upon the above, Applicants respectfully submit that the proposed combination of Sinton and Drakopoulos fails to teach or suggest all of the limitations of Applicants' claim 22, as required by MPEP §2131, and that a rejection under 35 U.S.C. §103(a) cannot be maintained.

Therefore, for at least the above stated reasons, the Applicants respectfully submit that amended claim 22 is allowable over the proposed combination of Sinton and Drakopoulos. Claims 23-38 depend either directly or indirectly from claim 22. Because claims 23-38 dependent from claim 22, Applicants respectfully submit that claims 23-38 are allowable over the proposed combination of references, as well. The Applicants respectfully request that the rejection of claims 22, 28, 29 and 36-38 under 35 U.S.C. §103(a), be withdrawn.

Regarding amended claim 39, the Applicants respectfully submit that the proposed combination of Sainton and Drakopoulos does not teach, suggest, or disclose, for example, a communication network supporting the exchange of voice and data, the network comprising at least one portable terminal having a wireless transceiver adapted for communication using a packet protocol; the at least one portable terminal arranged to exchange via the wireless transceiver packets comprising digital representations of sound; the at least one portable terminal adapted to exchange via the wireless transceiver packets comprising digital data; at least one access device having a wireless transceiver for exchanging one or both of packets comprising digital representations of sound and packets comprising digital data with the at least one portable terminal and comprising at least one network interface for exchanging information via a wired network; the at least one access device adapting one or both of packets comprising digital representations of sound and packets comprising digital data from its wireless transceiver for transmission via a designated one of the at least one network interface, and for adapting information from the designated one of the at least one network interface for transmission as one or both of packets comprising digital representations of sound and packets comprising digital data via its wireless transceiver; and wherein the packets comprising digital representations of sound also comprise destination information used for routing the packets through the communication network. The Office action alleges that Sainton discloses a communication network "...wherein digital voice packets wireless exchanged by the at least one portable terminal comprise information used for routing the digital voice packets through the communication network (see col. 8, line 25 to col. 9, line 25; digitized packets/frames/data from the cellular phone comprise routing/forwarding information through the cellular telephone system). (Office action, page 5, lines 4-7) The Applicants respectfully disagree. Applicants respectfully submit that the proposed combination of Sainton and Drakopoulos fails to teach or suggest wherein the packets comprising digital representations of sound also comprise destination information used for routing the packets through the communication network, as recited in Applicants' claim 39. The Applicants appreciate recognition in the Office action that Sainton does not explicitly disclose destination information. (Office action, page 5, line 8) The Office action alleges, however, that "...it is well known in the art when forming and routing packets/frames over the network to remote end-destination, one must use destination

address/number/information to route.” (underlining added) (Office action, page 5, lines 8-10) Applicants respectfully disagree, and submit that the use of packets comprising digital representations of sound that also comprise destination information used for routing the packets through the communication network is not well known in the context of the elements as recited in independent claim 39, and certainly was not well known at the time of Applicants’ invention. If the Examiner maintains this rejection, Applicants request that the Examiner cite a prior art reference that specifically shows what the Examiner alleges is well known.

The Office action attempts to overcome the shortcomings of Sainton by stating that Drakopoulos teaches “...wherein the outgoing digital voice packets comprise destination information (i.e. signaling/control information) used for routing the outgoing digital voice packets through the wireless packet network (see col. 5, line 31-42; using the address of the destination end user in voice packet for routing through the wireless network).” (Office action, page 5, lines 10-14) The Applicants respectfully disagree. To the contrary, Drakopoulos teaches a circuit switch-type system in which the contents of packets containing data or voice information is not used for routing the packet from source to destination. (See, for example, col. 6, lines 40-54) Instead of teaching digital voice packets wirelessly exchanged by the at least one portable terminal that comprise destination information used for routing the digital voice packets through the communication network, as recited in Applicants’ claim 39, Drakopoulos teaches circuit switching based upon “...a reservation request that preferably includes a location address of the source end user (that is, the mobile terminal 216 who is preparing the reservation request), a location address of the destination end user, and the type of service requested (voice or data).” (col. 5, lines 34-38) The Applicants respectfully submit that the “reservation request” of Drakopoulos is different from, and fails to teach or suggest a digital voice packet, as recited in Applicants’ claim 39.

The Applicants respectfully submit that the Office action has failed to specifically identify where the proposed combination of Sainton and Drakopoulos teaches at least one access device adapting one or both of packets comprising digital representations of sound and packets comprising digital data from its wireless transceiver for transmission via a designated one of the at least one network interface. The Office action also fails to cite where the combination of Sainton and Drakopoulos teaches adapting information from the designated one of the at least

one network interface for transmission as one or both of packets comprising digital representations of sound and packets comprising digital data via its wireless transceiver.

Based at least upon the above, Applicants respectfully submit that the proposed combination of Sainton and Drakopoulos fails to teach or suggest all of the limitations of Applicants' claim 39, as required by MPEP §2131, and that a rejection under 35 U.S.C. §103(a) cannot be maintained.

Therefore, for at least the above stated reasons, the Applicants respectfully submit that amended claim 39 is allowable over the proposed combination of Sainton and Drakopoulos. Because claims 40-57 depend either directly or indirectly from claim 39, Applicants respectfully submit that claims 40-57 are allowable over the proposed combination of references, as well. The Applicants respectfully request that the rejection of claims 45, 46 and 53-57 under 35 U.S.C. §103(a), be withdrawn.

Regarding claim 58, the Applicants respectfully submit that the proposed combination of Sainton and Drakopoulos fails to teach, suggest, or disclose, for example, a communication device supporting the exchange of voice and data, the device comprising wireless communication circuitry for communicating using a packet protocol; circuitry for converting an electrical signal representative of sound into digital voice packets for transmission via the wireless communication circuitry, and for receiving digital voice packets via the wireless communication circuitry, the contents of the received digital voice packets for conversion into sound; circuitry for capturing digital data into data packets for transmission via the wireless communication circuitry, and for receiving data packets via the wireless communication circuitry, the contents of the received data packets used for reproducing digital data; wherein the wireless communication circuitry exchanges packets with at least one access device of a communication network; and wherein digital voice packets wirelessly exchanged by the communication device and the at least one access device comprise destination information used for routing the digital voice packets through the communication network. More specifically, Sainton and Drakopoulos fail to teach or suggest wherein digital voice packets wirelessly exchanged by the communication device and the at least one access device comprise destination information used for routing the digital voice packets through the communication network.

The Office action states that Sainton discloses a communication network "...wherein digital voice packets wireless exchanged by the at least one portable terminal comprise information used for routing the digital voice packets through the communication network (see col. 8, line 25 to col. 9, line 25; digitized packets/frames/data from the cellular phone comprise routing/forwarding information through the cellular telephone system). (Office action, page 5, lines 4-7) The Applicants respectfully disagree. Applicants respectfully submit that the proposed combination of Sainton and Drakopoulos fails to teach or suggest where digital voice packets wirelessly exchanged by the communication device and the at least one access device comprise destination information used for routing the digital voice packets through the communication network, as recited in Applicants' claim 58. The Applicants appreciate recognition in the Office action that Sainton does not explicitly disclose destination information. (Office action, page 5, line 8) The Office action alleges, however, that "...it is well known in the art when forming and routing packets/frames over the network to remote end-destination, one must use destination address/number/information to route." (underline added) (Office action, page 5, lines 8-10) Applicants respectfully disagree, and submit that the use of digital voice packets wirelessly exchanged by the communication device and the at least one access device that comprise destination information used for routing the digital voice packets through the communication network is not well known in the context of the elements as recited in independent claim 58, and certainly was not well known at the time of Applicants' invention. If the Examiner maintains this rejection, Applicants request that the Examiner cite a prior art reference that specifically shows what the Examiner alleges is well known.

To remedy the admitted shortcomings of Sainton, the Office action submits that Drakopoulos teaches "...wherein the outgoing digital voice packets comprise destination information (i.e. signaling/control information) used for routing the outgoing digital voice packets through the wireless packet network (see col. 5, line 31-42; using the address of the destination end user in voice packet for routing through the wireless network)." (Office action, page 5, lines 10-14) The Applicants respectfully disagree. To the contrary, Drakopoulos teaches a circuit switch-type system in which the contents of packets containing data or voice information is not used for routing the packet from source to destination. (See, for example, col. 6, lines 40-54) Instead of teaching digital voice packets wirelessly exchanged by the at least one portable terminal that comprise destination information used for routing the digital voice packets

through the communication network, as recited in Applicants' claim 58, Drakopoulos teaches circuit switching based upon "...a reservation request that preferably includes a location address of the source end user (that is, the mobile terminal 216 who is preparing the reservation request), a location address of the destination end user, and the type of service requested (voice or data)." (col. 5, lines 34-38) The Applicants respectfully submit that the "reservation request" of Drakopoulos is different from, and fails to teach or suggest a digital voice packet, as recited in Applicants' claim 58.

Based at least upon the above, Applicants respectfully submit that the proposed combination of Sainton and Drakopoulos fails to teach or suggest all of the limitations of Applicants' claim 58, as required by MPEP §2131, and that a rejection under 35 U.S.C. §103(a) cannot be maintained.

Therefore, for at least the above stated reasons, the Applicants respectfully submit that amended claim 58 is allowable over the proposed combination of Sainton and Drakopoulos. Claims 59-72 depend either directly or indirectly from claim 58. Because claims 59-72 dependent from claim 58, Applicants respectfully submit that claims 59-72 are allowable over the proposed combination of references, as well. The Applicants respectfully request that the rejection of claims 58, 63, 66 and 69-72 under 35 U.S.C. §103(a), be withdrawn.

Claims 23, 24, 40 and 41 were rejected under 35 U.S.C. §103(a) as being unpatentable over Sainton in view of Drakopoulos, as applied to claims 22 and 39 above, and further in view of Cripps (US 5,838,730). The Applicants respectfully traverse the rejection. The Applicants respectfully submit that claims 23 and 24, and claims 40 and 41 depend, respectively, from independent claims 22 and 39. Applicants believe that independent claims 22 and 39 are allowable over the proposed combination of references, in that the proposed combination of references fails to overcome the deficiencies of Sainton and Drakopoulos. Because claims 23 and 24 and claims 40 and 41 depend, respectively, from claims 22 and 39, the Applicants respectfully submit that dependent claim 23 and 24 and claims 40 and 41 are allowable over the proposed combination of references for at least the reasons set forth above with respect to claim 22 and 39, respectively. Therefore, the Applicants respectfully request that the rejection of claims 23, 24, 40 and 41 under 35 U.S.C. §103(a) be withdrawn.

Claims 25 and 42 were rejected under 35 U.S.C. 103(a) as being unpatentable over Sinton in view of Drakopoulos, as applied to claims 22 and 39 above, and further in view of Honig et al. (US 5,481,533, hereinafter "Honig") The Applicants respectfully traverse the rejection. The Applicants respectfully submit that claims 25 and 42 depend from independent claims 22 and 39, respectively. Applicants believe that independent claims 22 and 39 are allowable over the proposed combination of references, in that the proposed combination of references fails to overcome the deficiencies of Sinton and Drakopoulos. Because claims 25 and 42 depend, respectively, from claims 22 and 39, the Applicants respectfully submit that dependent claims 25 and 42 are allowable over the proposed combination of references for at least the reasons set forth above with respect to claims 22 and 39, respectively. Therefore, the Applicants respectfully request that the rejection of claims 25 and 42 under 35 U.S.C. §103(a) be withdrawn.

Claims 26, 27, 30-32, 43, 44, 47-49 and 59-62 were rejected under 35 U.S.C. §103(a) as being unpatentable over Sinton in view of Drakopoulos, as applied to claims 22 and 39 above, and further in view of Perkins (US 5,159,592) The Applicants respectfully traverse the rejection. The Applicants respectfully submit that claims 26, 27 and 30-32, claims 43, 44 and 47-49, and claims 59-62 depend either directly or indirectly from independent claims 22, 39 and 58, respectively. Applicants believe that independent claims 22, 39 and 58 are allowable over the proposed combination of references, in that the proposed combination of references fails to overcome the deficiencies of Sinton and Drakopoulos. Because claims 26, 27 and 30-32, claims 43, 44 and 47-49, and claims 59-62 depend, respectively, from claims 22, 39 and 58, the Applicants respectfully submit that dependent claims 26, 27 and 30-32, claims 43, 44 and 47-49, and claims 59-62 are allowable over the proposed combination of references for at least the reasons set forth above with respect to claims 22, 39 and 58, respectively. Therefore, the Applicants respectfully request that the rejection of claims 26, 27, 30-32, 43, 44, 47-49 and 59-62 under 35 U.S.C. §103(a) be withdrawn.

Claims 33, 35 and 50 were rejected under 35 U.S.C. §103(a) as being unpatentable over Sinton in view of Drakopoulos, as applied to claims 22 and 39 above, and further in view of Doviak et al. (US 5,717,737, hereinafter "Doviak") The Applicants respectfully traverse the

rejection. The Applicants respectfully submit that claims 33 and 35, and claim 50 depend either directly or indirectly from independent claims 22 and 39, respectively. Applicants believe that independent claims 22 and 39 are allowable over the proposed combination of references, in that the proposed combination of references fails to overcome the deficiencies of Sainton and Drakopoulos. Because claims 33 and 35, and claim 50 depend, respectively, from claims 22 and 39, the Applicants respectfully submit that dependent claims 33 and 35, and claim 50 are allowable over the proposed combination of references for at least the reasons set forth above with respect to claims 22 and 39, respectively. Therefore, the Applicants respectfully request that the rejection of claims 33, 35 and 50 under 35 U.S.C. §103(a) be withdrawn.

Claims 34, 51, 52, 64 and 65 were rejected under 35 U.S.C. §103(a) as being unpatentable over Sainton in view of Drakopoulos, as applied to claims 22 and 39 above, and further in view of Weaver et al. (US 5,956,673, hereinafter "Weaver") The Applicants respectfully traverse the rejection. The Applicants respectfully submit that claim 34, claims 51 and 52, and claims 64 and 65 depend either directly or indirectly from independent claims 22, 39 and 58, respectively. Applicants believe that independent claims 22, 39 and 58 are allowable over the proposed combination of references, in that the proposed combination of references fails to overcome the deficiencies of Sainton and Drakopoulos. Because claim 34, claims 51 and 52, and claims 64 and 65 depend, respectively, from claims 22, 39 and 58, the Applicants respectfully submit that dependent claim 34, claims 51 and 52, and claims 64 and 65 are allowable over the proposed combination of references for at least the reasons set forth above with respect to claims 22, 39 and 58, respectively. Therefore, the Applicants respectfully request that the rejection of claims 34, 51, 52, 64 and 65 under 35 U.S.C. §103(a) be withdrawn.

Claim 67 was rejected under 35 U.S.C. §103(a) as being unpatentable over Sainton in view of Drakopoulos, as applied to claim 58 above, and further in view of Callon et al. (US 5,251,205, hereinafter "Callon") The Applicants respectfully traverse the rejection. The Applicants respectfully submit that claim 67 depends from independent claim 58. Applicants believe that independent claim 58 is allowable over the proposed combination of references, in that the proposed combination of references fails to overcome the deficiencies of Sainton and Drakopoulos. Because claim 67 depends from claim 58, the Applicants respectfully submit that

dependent claim 67 is allowable over the proposed combination of references for at least the reasons set forth above with respect to claim 58. Therefore, the Applicants respectfully request that the rejection of claim 67 under 35 U.S.C. §103(a) be withdrawn.

Claim 68 was rejected under 35 U.S.C. §103(a) as being unpatentable over Sainton in view of Drakopoulos, as applied to claim 58 above, and further in view of Reece et al. (US 5,915,214, hereinafter "Reece") The Applicants respectfully traverse the rejection. The Applicants respectfully submit that claim 68 depends from independent claim 58. Applicants believe that independent claim 58 is allowable over the proposed combination of references, in that the proposed combination of references fails to overcome the deficiencies of Sainton and Drakopoulos. Because claim 68 depends from claim 58, the Applicants respectfully submit that dependent claim 68 is allowable over the proposed combination of references for at least the reasons set forth above with respect to claim 58. Therefore, the Applicants respectfully request that the rejection of claim 68 under 35 U.S.C. §103(a) be withdrawn.

Newly Added Claims

Applicants have added new claims 73-88. Claim 73 is an independent claim. Claims 74-88 are dependent claims depending from claim 73. New claims 73-88 are similar in many respects to pending claims 22-72. Support for claims 73-88 may be found, for example, on pages 151-158, 254-309, and in Figures 28b, 28c, 30, 55a, 55b, 56a, 56b, 58, 59, 60, 61 and 62 of the Application. Applicants respectfully submit that claims 73-88 do no add new matter.

Conclusion

The Applicants believe that all of pending claims 22-72 are in condition for allowance. Should the Examiner disagree or have any questions regarding this submission, the Applicants invite the Examiner to telephone the undersigned at (312) 775-8000.

A Notice of Allowability is courteously solicited.

Appln. No. 10/760,167
Reply to Office action mailed May 2, 2006
Response filed August 7, 2006

The Commissioner is hereby authorized to charge any additional fees associated with this communication, or credit any overpayment, to Deposit Account No. 13-0017.

Respectfully submitted,

Dated: August 7, 2006

Kevin E. Borg
Kevin E. Borg
Reg. No. 51,486

McANDREWS, HELD & MALLOY, LTD.
500 West Madison Street
Suite 3400
Chicago, Illinois 60661
Phone (312) 775-8000
Facsimile (312) 775-8100